

## REMARKS

Claims 1-8 remain in the application for further prosecution. Claims 9 and 10 have been added.

### Claim Rejections - 35 U.S.C. § 103(a)

As stated previously, independent claim one includes the limitations of “a display including a video and non-video portion,” and a unitary touch screen that overlaps both the video and the non-video portion, such that the video portion includes “first indicia selectable via said unitary touch screen and said non-video portion including permanent player-selectable second indicia selectable via said unitary touch screen.”

Neither Saffari nor Bruzzese, alone or in combination, disclose all of these features. Saffari is directed to game that involves a player positioning sequentially provided symbols. *See Abstract.* Saffari discloses using a touch screen overlaying a video portion or using permanent buttons. There is no mention of using a touch screen over the permanent buttons. Bruzzese discloses a gaming machine having a plurality of spinning reels viewed through a touch screen. Bruzzese does not disclose permanent player-selectable indicia selectable via the touch screen. Thus, for at least this reason, claims 1-8 are believed to be allowable over the combination of Saffari and Bruzzese.

Furthermore, in order to prove a *prima facie* case of obviousness, there must be a motivation to combine the prior art references. There is no motivation here. Saffari discloses two separate embodiments, one using a touch screen overlaying the video portion, the other using permanent buttons. Col. 2, l. 64 – col. 3, l. 7. As discussed previously in the Appeal Brief dated June 15, 2004, Bruzzese discloses only using a touch screen over a non-video portion

(mechanical spinning reels). Neither reference supplies any motivation to combine a touch screen overlaying a video portion and a touch screen overlaying a non-video portion.

In fact, Bruzzese teaches away from the combination. Bruzzese states that it is technically difficult to put a touch screen controller on a video screen. Col. 1, ll. 30-35. One of ordinary skill in the art reading Bruzzese would not be motivated to apply its teachings to a video screen. The Examiner is improperly using hindsight and the present application as a roadmap to reject the claims. For at least this reason, claim 1 and its dependents are believed to be allowable over the prior art.

Claim 4 is dependant on claim 1, and, thus, includes all of its limitations. As stated above, neither Saffari nor Bruzzese disclose a device having a unitary touch screen covering both the video and non-video portions of the display. U.S. Pat. No. 5,033,744 to Bridgeman et al (“Bridgeman”) does not cure this deficiency. Bridgeman is directed to a video poker game that allows a player to “zap” cards out of their poker hand. Bridgeman makes a brief mention that a touch screen may be used as an input device, but does not provide any teaching as to a unitary touch screen covering both the video and non-video portions of the display. For at least this reason, claim 4 is believed to be allowable over the combination of Saffari, Bruzzese, and Bridgeman.

New dependent claims 9 and 10 have been added. It is the Applicants’ belief that these claims are also allowable over the prior art. Claim 9 is dependent on claim 1 and, thus, includes all of its limitations. Claim 9 also adds the limitation that the video portion displays at least one of a reel game, video poker game, video keno game or a video roulette game. Claim 9 is believed to be allowable for the reasons stated above in reference to claim 1. Furthermore,

Bruzzeze teaches away from such a video screen. Bruzzeze discloses a gaming terminal having mechanical reels and states that applying a touch screen over a video screen creates "difficult technical problems." Bruzzeze, col. 1, ll. 30-36. Thus, Bruzzeze teaches away from a combination in which a touch screen overlays a video reel game.

Similarly, claim 10 is also believed to be allowable over the prior art. Claim 10 is also dependent upon claim 1, and is believed to be allowable for the reasons stated above. Furthermore, claim 10 includes the limitation that the video display displays a bonus game in response to a bonus outcome being achieved. Again, Bruzzeze teaches away from a touch screen overlaying a video screen that displays a video game for the reasons stated above in reference to claim 9.

### **Conclusion**

It is the Applicant's belief that all of the claims are now in condition for allowance and action towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,

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